

Minutes
Meeting of the Planning Board
Regular Session
Village/Town of Mount Kisco
Tuesday, November 10, 2009

Meeting called to order at 7:55 P.M. at the Municipal Building Mount Kisco, New York.

Members Present: **Chairman Joseph Cosentino**
 Vice Chairman Anthony Sturniolo
 Stanley Bernstein
 Ralph Vigliotti
 Joseph Morreale

Members Absent: **Doug Hertz**
 Sol Gibbons

Staff Present: **Nanette Bourne**
 Whitney Singleton
 Anthony Oliveri

Acceptance of Minutes September 9, 2009

Motion: **Stanley Bernstein**
Second: **Vice Chairman Sturniolo**
Aye: **Joseph Morreale**
Aye: **Ralph Vigliotti**
Aye: **Vice Chairman Sturniolo**
Aye: **Stanley Bernstein**
Aye: **Chairman Cosentino**

Formal Application:

Steven Finkelstein
156 North Bedford Road
PB2009-15

Present:

Steven Finkelstein, Property Owner
Barry Goewey, R. Barry Goewey, Architect

Barry Goewey: This section used to be Miller's Auto Parts on North Bedford Road. This was the original structure that was built and approved in 1964. An addition was put on it in the '70's, and it became one large structure of approximately 9,800 square feet. They have since moved out to Lexington Avenue. Currently the whole complex is the Village Furniture Shop. Right now my client has a tenant and he wants to subdivide and move off into this wing, which is approximately 3,800 square feet. That will be a paint store, Sherwin Williams. We will have a retail area here and a storage area for the paints. We are going to re-do the front exterior by putting a stucco finish, and add a column fenestration. We have some canopies that exist and we will embellish on those and make it better detail. We will keep the extension here. That pretty much defines Sherwin Williams's part. We are going to have new storefronts with baked enamel aluminum frames with insulated glass. The current one that was built in the '60's was not insulated glass but plate glass. We are making a total improvement in the front. We are also adding landscaping to the front with a nice selection of different shrubs that bloom at different times. We are creating a lawn area here and landscaping on the southern portion of the property. The existing building is a block building, so we will be stuccoing and changing the color to a sage gray. It has been in front of the Architectural Review Board, and they approved the design change. We are going to put a series of column projections on the front and add some trim. We are also going to do the side that is facing Dunkin Donuts. The overhead door remains, the windows remain. Pretty much all the existing is going to remain. This is a sample of the lamp that is going to be picked, to be put on the front of the building. We are going to take off the mercury vapor lighting and put some nice decorative lamps on the column post. The canopy, which projects on the Sherwin Williams side, will also have some down lights. Basically we have kept the existing footprint with parking for three cars, which will be remaining.

Chairman Cosentino: What are the sizes of the parking spaces?

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Barry Goewey: The front spaces here are 9.5, but the rest are 9 foot by 18.5.

Chairman Cosentino: Our code is 9.5 by 18, so you are going to have to comply with that.

Steven Finkelstein: The existing spots have some employee spots and some 9.5 spots.

Chairman Cosentino: They all have to be 9.5 x 18. That is the code. We do not make it, we just follow it.

Steven Finkelstein: But cars are getting smaller, aren't they?

Vice Chairman Sturniolo: Yes, but the code is not changing.

Steven Finkelstein: We plan to re-stripe the whole place. Before we go on, I have come before the Board a couple of times with car dealerships, The Vitamin Shoppe and have been denied. I have been dealing with Corporate Sherwin-Williams. I have gone bankrupt with my father; we lost \$70,000 in the bankruptcy with the carpet tenant. This furniture tenant pays me every month. He is on a short lease and a shore lease. If he does not behave he does not have to stay.

Chairman Cosentino: We are not questioning Sherwin Williams.

Steven Finkelstein: I want the Board to know that I have The Village Shop on a month to month. Sherwin Williams has two full time employees. I could not ask for anything better. They want a 20-year lease. We have tried for many years to do something with this property.

Chairman Cosentino: I do not know if this is accurate: "We plan to paint and stripe the building." You are not going to paint the parking lot?

Steven Finkelstein: The damaged areas are definitely going to be re-paved and then it is going to be resealed.

Chairman Cosentino: You have a lot of potholes there.

Steven Finkelstein: It is cracks. I am budgeted at \$200,000 to do this whole thing.

Vice Chairman Sturniolo: Is your contractor doing the renovation or is Sherwin Williams?

Steven Finkelstein: We have to provide them a storefront and a plain vanilla box. They are doing the interior renovations.

Vice Chairman Sturniolo: But you are doing the exterior?

Chairman Cosentino: I would like to set up a walking tour of this. I think when you were here the last time we complained about the paving of the parking area. You have ARB approval on the garage door and the footprint is staying the same?

Steven Finkelstein: There are two garage doors, and they approved the other one as well.

Chairman Cosentino: The building looks great. You did a good job. The ARB approved the front of the building. What type of material are you using?

Steven Finkelstein: We are using Azek material, a synthetic trim Board that is impervious.

Chairman Cosentino: Is there anything in the parking lot itself such as an island that adds to it? When you look at it from the road, you see one block of blacktop. What have you done to improve that?

Barry Goewey: It is all dedicated to access here; getting into the front. Its 40 feet off the property line.

Chairman Cosentino: What about something in the front where the sidewalk is?

Nanette Bourne: Are you talking about the public right of way? There is some public right of way on both sides of the driveway. Even though that is not your property, it is a

good opportunity for some landscaping. You have to get a permit from DOT. It is not that difficult.

Barry Goewey: We can add some planting in there, but the bulk of the landscaping will be in this corner of the property.

Chairman Cosentino: When one drives by, because you did such a good job on the exterior of the building, we want the front to be beautified to let you know that there is something there and not just blacktop in front of a driveway.

Steven Finkelstein: My family would love to. When I hired Barry, I was shaking in my boots because all I was saying to him was, 'Don't change the footprint from 1980.'

Chairman Cosentino: He did not.

Steven Finkelstein: Right. One of the concerns is that you have to work with what we have. I do not want to get involved in a whole site plan review. I instructed him to do a certain job. We can definitely elaborate if we have your cooperation on the landscape aspect.

Chairman Cosentino: You have our cooperation on the landscaping. There is no doubt about that. We want something to accommodate the building, and right now I do not see anything that you are going to be doing there in the right of way. You have to dress up the perimeters in the side and the front with shrubbery and plantings. I am sure you can do something to beautify it. It is up to you to show us something that we can say "that really looks nice."

Barry Goewey: I thought you would feel that way about this.

Chairman Cosentino: We do, about the top part.

Barry Goewey: Basically it is all macadam in the front. That is not going to change.

Chairman Cosentino: That is the problem. If you put some shrubs in the front, your eyes do not really hit the macadam right away. You are going to look at shrubs. Then, when you look up you are going to be looking at a beautiful building. I emphasize that the shrubs are what is going to make this.

Barry Goewey: Duly noted. We can do that.

Chairman Cosentino: We will take a site visit next Saturday. Will you be there?

Barry Goewey: Yes. You referenced the size of the parking spaces. This Board has the authority to change that as well, or allow certain size cars. At one time there was a medium size car and the 8.5 was allowed.

Ralph Vigliotti: We are not going to discuss that tonight.

Vice Chairman Sturniolo: The Planning Board has the discretion to waive the installation of the parking spaces, but not reduce the size of the parking space that is established by code.

Chairman Cosentino: The parking spaces are 9.6 x 18, and we have no authority to waive that.

Barry Goewey: This was previously approved that way.

Chairman Cosentino: It does not make any difference.

Steven Finkelstein: Then you are going to get less cars.

Chairman Cosentino: That is up to you to get what you need.

Steven Finkelstein: There is no other way that is going to happen.

Anthony Oliveri: You also need to show handicapped parking.

Steven Finkelstein: We are willing to do that. We have another drawing that we were going to submit that I yanked because I was so concerned about changing. When I met with Austin the already on-site spots worked with my furniture tenant.

Chairman Cosentino: Didn't Austin mention the size of the parking spaces?

Steven Finkelstein: No, because he was thinking a pre-existing situation.

Nanette Bourne: As the Board is telling you, they really do not have the ability to change it. I think it will become clearer once you put the zoning summary on your plans, which is how you are breaking up your square footage, how you are meeting your parking requirement.

Chairman Cosentino: That may bring the parking count down.

Nanette Bourne: It will, probably, but we will have to look at where you fit in the zoning chart, which has to do with various categories.

Chairman Cosentino: The storage area is going to bring the parking count down.

Barry Goewey: The whole premise of that is we were going with what was existing, thinking that we were not going to be re-visiting what was already approved, and that a similar tenant that was there would already exist. So, the net was that we really were not changing that much. I do normally put zoning data in.

Chairman Cosentino: We want to work with you and that is not a problem. What year does this go back to?

Barry Goewey: 1980.

Chairman Cosentino: Things have changed since then. Cars have gotten larger. Let's do the right thing now.

Steven Finkelstein: I know the Board is not giving parking variances. I ran the numbers with Austin and I had three extras.

Chairman Cosentino: But if you show storage and the like, it may bring the parking count down.

Steven Finkelstein: I know the new law states that I am in front of the Board because I am demising my place. If we were just doing a facelift without landscaping, and I promised this Board three years ago that when I came back I would do landscaping. That is why I am saying yes. But if we come up where we are short, doesn't that put me back in with everybody else that just want more parking?

Chairman Cosentino: It is not going to put you back. We will work with you. We want to see North Bedford Road look better. We have a chance to do that. Every member of my Board wants to see a beautified building.

Ralph Vigliotti: Is there a need to have two entrances and exits here? It exists now, but is there truly a need for it with this site?

Steven Finkelstein: When we operated our auto parts business there, and I'm there all the time, we have a van come over from Kisco Avenue and deliver equipment. The furniture tenant gets occasional tractor-trailer deliveries and Sherwin Williams already told me they are going to be getting tractor-trailer deliveries. I know what the problem in the village is with tractor-trailers parking in the middle of Bedford Road. This two curb cut is very important to the truckers. I've spoken with them, and I think if we start getting into shortening this, I am now dealing with the State of New York; there is additional cost of curbing which may or may not need to be done. There is Con Ed and NYSEG using our parking lot to go to Dunkin Donuts. Whether it is right or wrong, these big trucks are not able to park in Dunkin Donuts. It is a safety issue.

Ralph Vigliotti: It also begs the question if you are going to put a fence to the north side of your property. If you have trucks coming in and you are comfortable with that, they are taking up parking spaces that you need to support your site. I have been to Dunkin Donuts and there have been 39 cars at 9:00 that park in your lot. It may beg the question do you need to put up a fence there to prevent that from happening.

Steven Finkelstein: In all due respect, I spoke to the manager of Dunkin Donuts and told them they have to police my lot. They have been, and it's a good, working neighborly relationship. I understand what you are saying and if we're here at a future date with a tenant that requires a fence, that is a different story, but I respect what you're saying. It is a neighborly thing.

Ralph Vigliotti: I'm glad you put it on the record that there are trucks parking there that are going over. We have a Dunkin Donuts proposal on the south end of town, and they don't understand the kinds of traffic and parking issues that your neighbor has.

Steven Finkelstein: There is always room. It is a convenience thing.

Ralph Vigliotti: I'm still not sure whether you need two entrances into the site. That is something the planners can take a look at. There is a little sidewalk here. If this is green space here, it would behoove us to continue that.

Steven Finkelstein: When you do your walkthrough, Barry and I had bounced that around numerous times. I don't think it would interfere with parking. That is state land, outside my borderline.

Nanette Bourne: To make these improvements with the State, they are not easy but not as bad as you may think if it really improves parking, aesthetics and circulation. I don't know what the Department of Transportation would prefer if you would submit this to them.

Steven Finkelstein: To be honest, Mr. Vigliotti, I was hoping you wouldn't bring that up. Because there are two curb cuts on Bedford Road. It makes it easier. We don't have a no left hand turn there. We are trying to keep this project simple and under \$200,000. If I have to get involved with all of that with the state...

Nanette Bourne: When you spoke of the tractor-trailers, you were referring to deliveries at your building, not Dunkin Donuts?

Steven Finkelstein: Mine and once in awhile I see the furniture tenant get tractor-trailer deliveries.

Nanette Bourne: Dunkin Donuts doesn't park here?

Steven Finkelstein: No. Only myself and my tenants.

Joseph Morreale: When do you anticipate Sherwin Williams moving in?

Steven Finkelstein: They would like to be open for the spring. The contract that I signed and I know it is not your problem, and after I get all municipal permits, which includes the back flow prevented valve, the whistle blows and I have three months to build. Then they have the right to penalize me financially. I am lucky to have them at this point in the economy.

Joseph Morreale: With all due respect, Mr. Vigliotti, I would hate to see them get held up with the State because of all these complications over expanding the island. I'm wondering if the island can be looked at afterwards.

Ralph Vigliotti: I am not married to the island. I want our planners to look at whether this site needs to ingress/egress exits to the site. The state is trying to cut back on state road ingress/egress driveways. This is an opportunity. Personally I do not see it, but the planners may see it differently; that it is okay. I look at it as an unnecessary ingress. It is a point we have to talk about.

Vice Chairman Sturniolo: I have one supporting argument and a question. I agree with my colleague, Mr. Vigliotti that I would like to see that front explored in further detail. Secondly, Mr. Finkelstein, last time you were here; whether it was a Vitamin Shoppe, etc., you made the statement to this Board that you had engaged John Slaker to develop a plan for the front of the building.

Steven Finkelstein: I did.

Vice Chairman Sturniolo: We have spoken to John Slaker, and he recalls no conversation with you at all regarding that. Is he mistaken?

Steven Finkelstein: He's mistaken.

Vice Chairman Sturniolo: And you're correct?

Steven Finkelstein: Yes. John came to my site. He didn't do any drawings.

Vice Chairman Sturniolo: I understand that.

Steven Finkelstein: No, no, but I'll tell you what happened. In the meantime, he was closing his Somers office and joining the Armonk firm, and he did meet me at the site. We sat in at a table at The Furniture Guy, and he said, "You don't have any grass, and I really don't know what to tell you."

Vice Chairman Sturniolo: But he was mistaken in his statement to us?

Steven Finkelstein: Yes. He many not know who I was it. It was a short, 45-minute meeting.

Vice Chairman Sturniolo: Thank you.

Anthony Oliveri: In terms of the plan, we need to see the existing survey.

Steven Finkelstein: Do you want it now?

Anthony Oliveri: No. If you're going to make changes, submit it altogether. Regarding the parking striping, you are going to meet with Austin to further look at the parking counts.

Steven Finkelstein: If I have to make 9.5 foot parking spaces, then so be it.

Vice Chairman Sturniolo: Or you reduce the size of the building to accommodate the parking, as they go hand in hand.

Anthony Oliveri: It has to be looked at.

Steven Finkelstein: We're not reducing the size of the building.

Chairman Cosentino: It's up to what you do inside.

Anthony Oliveri: I see three surplus spaces. There are 30, and you need 27. So maybe it works out.

Nanette Bourne: We don't know if he needs 27.

Anthony Oliveri: That's what they're saying. They need to show that on the zoning table and on the plan.

Barry Goewey: I had worked out the 27 number.

Anthony Oliveri: Yes and the spaces need to be dimensional.

Chairman Cosentino: You have no parking in front of the building?

Barry Goewey: I have done a scheme that way. These are parking spaces here. There are five approved spaces in the front, approved in 1980.

Joseph Morreale: You have 19 vertical spaces here. If you do a half foot of space, you can make it up.

Steven Finkelstein: I was obsessed with getting into a whole site plan review because the building is large from what we have.

Chairman Cosentino: You have to understand something. You are in a site plan review. We are trying to make it easy for you.

Steven Finkelstein: Thank you. People do pull up anyway, and the difference between this and the existing plan that we submitted to you, is that Barry wanted to see the parking here with the handicapped here with the sidewalk. He wanted to do it the right way and I pulled it from him thinking I wasn't in complete site plan review.

Chairman Cosentino: Get back to Austin and let him work with you on that.

Anthony Oliveri: You also need to conform to our new lighting plan.

Steven Finkelstein: It's on the building. It's on the elevation site.

Anthony Oliveri: We are going to see that the lighting conforms to the illumination code and the cut sheets.

Barry Goewey: I understand you need to see a photometric. What is the foot-candle count at the property line?

Anthony Oliveri: .1.

Nanette Bourne: Don't go over five inside. If you look at the illumination code, you'll see what the requirement is.

Whitney Singleton: Just to clarify, you're proposing three tenants in the building, correct?

Steven Finkelstein: Correct.

Whitney Singleton: And you're going to provide the zoning conformity chart showing the breakdown of the uses and the square footage and the parking calculations and all of that.

Steven Finkelstein: Yes, I am on all three of the spots.

Joseph Morreale: I want to say I think the building is an improvement.

Steven Finkelstein: Thank you very much. The new tenant would like to be open by the spring, because that is their season.

Nanette Bourne: We are happy to help you make contact with DOT to either check with them on the planning and explore the driveway issue.

Steven Finkelstein: Thank you. Is it possible to get everything else done and get a C.O. from the village so my tenant can go in?

Chairman Cosentino: We're not going to let you lose a tenant. Your question was, are you going to be denied a C.O. if the building is complete and the curb cuts are not.

Nanette Bourne: Another way to put that is would the Board consider a resolution to approve subject to DOT permit?

Chairman Cosentino: Yes. I do not want to hold him up.

Steven Finkelstein: Thank you.

Continuing Review

**Mount Kisco Diner
252 Main Street
PB2008-10**

Present: Anthony Monteleone, Attorney-at-Law on behalf of the applicant, Mr. Frank Georgiou

Anthony Monteleone: I understand that the Board is considering a memorandum at this time to the Village Board.

Chairman Cosentino: Yes, we are. We have a letter that was written and needs to be forwarded to the village Board of our recommendation for proposed rezoning of the diner. Is there any comment from the Board on that before it goes to the Village Board? I have none myself.

Joseph Morreale: Mr. Monteleone, did you read this?

Anthony Monteleone: Yes, I did.

Joseph Morreale: And you saw all the conditions?

Anthony Monteleone: I don't consider them to be conditions. I consider them matters to be discussed at the site plan review.

Joseph Morreale: Correct.

Chairman Cosentino: This letter has nothing to do with conditions imposed on anyone. It is only for the re-zoning of the diner. That is that entire letter is telling the village board.

Anthony Monteleone: If you are asking me if I agree with some of the language, the answer would be no, I do not, but it is your Board's prerogative.

Joseph Morreale: I was pointing out that there are things listed in here that we have to come back to.

Anthony Monteleone: I understand.

Motion to Accept the Recommendation to the Board of Trustees for Affirmative Action on the Proposed Rezoning of the Mount Kisco Diner Property, Re-mapping of the former Paul's Power Motor Site from OD to CB-2.

Motion: Joseph Morreale
Second: Ralph Vigliotti
Aye: Stanley Bernstein
Aye: Vice Chairman Sturniolo
Aye: Ralph Vigliotti
Aye: Joseph Morreale
Aye: Chairman Cosentino

Anthony Monteleone: Thank you. I appreciate that, and I look forward to being back with you, hopefully in January.

Chairman Cosentino: We will be happy to see you.

Project Updates:

- Letter from Scott Blakely, Insite Engineering, to Francesco Mignone dated October 29, 2009 re 211 Kisco Avenue - Carolex Corp.
- Letter from Jeff Econom, P.E., to Natasha Court, P.E., dated November 4, 2009 re Irrigation Well for Northern Westchester Hospital Center, 400 Main Street

Vice Chairman Sturniolo: Anthony, when you read the letter from Jeff Econom re the irrigation well, it is your feeling that it also includes irrigation for the green roof above the new Emergency Room?

Anthony Oliveri: He does not mention anything about that, so there is no indication that it is. I will inquire with Jeff.

Chairman Cosentino: Tell him I would like a letter of clarification if the irrigation is going to include the green roof.

Vice Chairman Sturniolo: The way I understand it in the LEED certification is that the rainfall feeds the green roof, but in times of drought, that supplemental water needs to be brought to the roof.

Anthony Oliveri: I have not seen the set up they are proposing. It might be more complicated than that. I will provide you with clarification on that.

Chairman Cosentino: We need to discuss the Rules and Regulations, but if it is okay with the Board, I would rather wait until Doug comes back.

Stanley Bernstein: There are a few things I would like clarified as well, and we should forward our comments to Nancy.

Whitney Singleton: I would like to update your board as to the current draft of the changes to 110-38, the Change of Use Permission. I want to confirm that while your board did initiate that process, I want to make sure that since there have been revisions, that you are comfortable with them, as the village board will be entertaining this sometime in November. Your board has been provided with various iterations and it does provide for a different process map. It originally had provided for the process whereby the Planning Board chairman in consultation with the Building Inspector, Planner, Engineer and I would make determinations as to coming back before the board. That has now been changed that there will be written recommendation by the Building Inspector as to the application's compliance with the code. In the event that it did meet certain criteria, the Planning Board's jurisdiction could be waved by you as Chairman, based upon a written recommendation by the Building Inspector. It is no longer going to involve Nanette, Anthony, or myself but we would, of course, be available for consultation.

Chairman Cosentino: I think it simplifies things a lot, and you might have things come before this Board that you normally would not have.

Whitney Singleton: Yes. That was a concern of the public, and they may that abundantly clear.

Stanley Bernstein: It simplifies it but also weakens it. It is not up to us, it is up to the village board itself, but they are being swayed by a lot of loudmouths that are getting up there. The loudmouths have a little bit of an axe to grind, they are looking at dollar signs, and they do not care about the Village. All they are interested in is their profit margin. I do not think the village board should knuckle under to any of that. This is my opinion and I will tell it right to them.

Chairman Cosentino: I do not think they knuckled down to anyone. My theory has always been if lawyers are for something, you have to be very careful. I am sorry Whitney.

Stanley Bernstein: I agree with that.

Chairman Cosentino: I get skeptical on that. I have seen some lawyers in here against it, which made me believe that we need it.

Whitney Singleton: Just to address Stan's point, the concern particularly in this downturn economy, was the balance between the business which exists, and being able to get someone in to a space that is ready to go and losing that perspective tenant. The only time when this is going to occur is where there are no physical alterations being proposed to the site. If someone is saying I have a tenant that wants to go into this space, and they are a permitted use and there is no increased parking requirement and they are making no physical alterations to the site other than signage or façade, can they go in? The prospect of having to wait several weeks to go to the Planning Board and undergo the review, the business community was telling us that they would not be able to get any tenants. It was a balance. It is not approved yet.

Chairman Cosentino: There is a difference. For example, if one person came in and has a mom and pop restaurant, and an Olive Garden comes in, see what happens with parking. It may be the same type of business, but there is a difference in mitigation of how it operates. If something like that came before me, I would say that has to go before the Planning Board.

Stanley Bernstein: I agree with that 100 percent.

As there was no further business, on a motion by Stanley Bernstein, seconded by Ralph Vigliotti, the meeting was adjourned at 8:45 P.M.

Respectfully submitted,

Stanley Bernstein,
Recording Secretary

Dm